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WATER QUALITY AND THE 2018 FARM BILL: THE REGIONAL CONSERVATION PARTNERSHIP PROGRAM

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Introduction

The United States has a massive nutrient pollution problem.¹ Nutrient pollution threatens states' drinking water and recreational waterbodies and imperils regionally and nationally important lakes, bays and estuaries. Although urban stormwater and sewage contribute to the problem, agricultural runoff is the largest source of nutrient pollution.²

Negative impacts from nutrient pollution are growing, in part because we lack a comprehensive, focused and integrated policy approach to stem nutrient pollution from agricultural lands.³ State and federal water and agriculture policies need to be taken out of their silos and amended to incorporate a strong focus on implementing local watershed projects that can effectively address nutrient runoff and restore water quality. In particular, farm bill conservation programs must be amended to include a local watershed planning and implementation framework and to provide adequate funding, data, expert staff, public technology and training to support needed local watershed projects.

Examples of the negative impacts of nutrient pollution abound. In 2014, officials ordered the 500,000 residents of Toledo, Ohio to stop using tap water due to toxic algae blooms in Lake Erie - the city's drinking water source. Lake Erie also provides drinking water for eleven million other people living near the lake who are at risk of similar future tap water bans.⁴ Contentious legal battles and settlements over unsafe nitrate levels in private and public drinking water supplies in parts of Wisconsin, Kansas and Iowa have been kicked into full gear and may significantly increase ratepayer and private well owner costs.⁵ And, in response to toxic blooms along the entire west coast in 2015, officials banned crab fishing and clam digging and clam, mussel and anchovy consumption.⁶ Just last year, in 2017, scientists measured a dead zone in the Gulf of Mexico that was the size of New Jersey, and scientists estimated

¹ Nutrients that cause nutrient pollution in waterbodies include nitrogen and phosphorus.

² Konopacky and Ristino, *The Healthy Watershed Framework: A Blueprint for Restoring Nutrient-Impaired Waterbodies Through Integrated Clean Water Act and Farm Bill Conservation Planning and Implementation at the Subwatershed Level*, p 648-49

³ Konopacky and Ristino, *The Healthy Watershed Framework: A Blueprint for Restoring Nutrient-Impaired Waterbodies Through Integrated Clean Water Act and Farm Bill Conservation Planning and Implementation at the Subwatershed Level*, p 648-49

⁴ <https://www.nytimes.com/2014/08/04/us/toledo-faces-second-day-of-water-ban.html>; <https://www.nytimes.com/2014/08/05/us/lifting-ban-toledo-says-its-water-is-safe-to-drink-again.html>

⁵ <https://www.wpr.org/nitrates-polluting-1-5-private-wells-wisconsin>; <http://www.circleofblue.org/2017/world/kansas-town-faces-big-bill-clean-drinking-water/>; <https://news.nationalgeographic.com/2017/12/iowa-agriculture-runoff-water-pollution-environment/>

⁶ <https://oceanservice.noaa.gov/news/sep15/westcoast-habs.html>

that the dead zone in the Chesapeake Bay was the size of 3.2 million Olympic swimming pools.⁷ Local examples of toxic and nuisance algae blooms and unsafe nitrate levels are too numerous to list.

Despite the growth of negative impacts from nutrient pollution at the macro level, seeds for successfully addressing the problem continue to be planted at the local and state levels. Local and state stakeholders, together with their Natural Resource Conservation Service (NRCS) partners, have been working with farmers on small-scale watershed planning and implementation projects. Although not all, several of these projects demonstrate a prioritized, quantifiable and investment-based approach to successfully reducing agricultural nutrient runoff and restoring water quality. These model projects implement layered conservation practices sufficient to substantially cut nutrient runoff to local waterbodies from local watersheds.⁸

To effectively address local, regional and national nutrient pollution impacts, it is imperative that model local watershed projects are identified as such and scaled up. Individual projects dotted sparsely across agricultural landscapes are not enough. Scaling up, however, does not mean bigger watershed projects. Instead, it means implementing a critical mass of local watershed projects within states and across regional watershed areas that in the aggregate will protect local, regional and national water resources. We cannot ensure the long-term successful restoration of local waterbodies, restore regional waterbodies or protect human health and the environment without policies that support local watershed project development at scale.

Scaling up local watershed projects to a level sufficient to address the nutrient pollution problem will require that policymakers coordinate relevant state and federal water and agriculture policies and focus them on systematically replicating model local watershed projects. A comprehensive policy framework that provides for local watershed planning and implementation, sufficient technical staff, appropriate data sharing, accessible public technology tools and training and adequate funding is critical. Without this coordinated and focused policy support, successful local watershed projects will likely continue to merely dot the landscape - supported by the heroic efforts of stakeholders that piece together financial and human resources from a mishmash of state and federal programs and NGO contributions - but the scale of projects on the ground will remain insufficient to address the nutrient pollution problem. Moreover, although individual projects may succeed in restoring local waterbodies, even successful local efforts may eventually be undermined by a lack of resources for watershed projects upstream.

⁷ <http://www.noaa.gov/media-release/gulf-of-mexico-dead-zone-is-largest-ever-measured>; <http://www.noaa.gov/media-release/noaa-usgs-and-partners-predict-larger-summer-dead-zone-for-chesapeake-bay>

⁸ Konopacky, Small Scale Watershed Planning and Implementation in America's Farming Communities; Konopacky, Battling the (Algae) Bloom: Watershed Policies and Plans in Wisconsin, p 302-28.

Farm Bill Reauthorization

Reauthorization of the Farm Bill in 2018, in particular, reauthorization of the farm bill conservation programs and related data provisions, presents a critical opportunity to revise federal agriculture policy in order to catalyze the scaling up of local watershed projects that are necessary to restore nutrient impaired water resources.

The importance of capitalizing on this near-term opportunity to amend farm bill conservation programs and related data sharing and privacy provisions cannot be overstated.⁹ In many states, a substantial amount of conservation work, including watershed projects, is carried out through farm bill conservation programs with farm bill funding. Accordingly, addressing challenges with the content of farm bill conservation programs will play a large role in shaping conservation work on the ground. By utilizing the 2018 farm bill reauthorization process to focus conservation programs and dollars on supporting local watershed projects, we can start to immediately scale up sound watershed projects and reduce agricultural nutrient pollution.

Currently, farm bill conservation programs are not structured to ensure that taxpayer dollars are wisely invested in local watershed projects that will produce maximum water quality benefits per dollar spent. Instead of investing in prioritized groups of conservation practices fitted to local watershed needs, farm bill conservation programs allocate approximately 5 billion dollars annually to support largely uncoordinated farm-by-farm conservation work.¹⁰ Given limited resources, finite timelines for protecting humans and the environment and the geographic realities of watershed systems, the status quo, farm-by-farm, approach to conservation in the farm bill cannot be used to effectively address nutrient pollution. Restoring nutrient

impaired water resources will require shifting the farm bill conservation programs' focus, at least in part, from farm-by-farm conservation and individual producers to local watershed projects in which several producers and farms implement practices that are best suited for addressing nutrient runoff within a local watershed - a precision conservation approach at the local watershed scale.

Incorporating a sound local watershed project framework into farm bill conservation programs would help to produce the necessary shift to local watershed conservation implementation. To be effective, the watershed project framework that gets incorporated into farm bill conservation programs should provide for a local watershed plan development and implementation process, use of public technology tools and data, identification of measurable success metrics, tracking of progress and adaptive management of results.¹¹ A sound watershed project approach in federal conservation programs would lead to the implementation of prioritized groups of conservation practices for individual farms that are contextualized within local watersheds, which is the conservation implementation approach that is necessary to effectively address nutrient polluted waters resources.

In addition to providing a sound local watershed project format, it is critical to ensure that sufficient expert technical staff will be available to carry out needed conservation work. Farm bill programs have failed to identify and provide a level of mandatory technical staff funding that would support needed conservation work in local watershed projects. Funding for technical staff is lumped into general program budgets or subject to the unpredictable appropriations process.¹²

⁹ 16 USC § 3801 et seq.; 7 USC § 8791

¹⁰ Congressional Budget Office's June 2017 Baseline for Farm Programs, p 3 available at: <https://www.cbo.gov/sites/default/files/recurringdata/51317-2017-06-usda.pdf>; Megan Stubbs, Congressional Research Service, Conservation Provisions in the 2014 Farm Bill, p 1, available at: <http://nationalaglawcenter.org/wp-content/uploads/assets/crs/R43504.pdf>; Conservation programs carried out on a farm-by-farm basis include the: Environmental Quality Incentives Program (EQIP), 16 USC § 3839aa-3839aa-9; Conservation Stewardship Program (CSP), 16 USC § 3838d-3838g; Agricultural Conservation Easement Program (ACEP), 16 USC § 3865-3865d; and Conservation Reserve Program (CRP), 16 USC § 3831-3835.

¹¹ See discussion below outlining recommendations for Regional Conservation Partnership Program (RCP) regulations that identify an enhanced voluntary local watershed project approach.

¹² 16 USC § 3841(a) ("For each of fiscal years 2014 through 2018, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under this chapter (including the provision of technical assistance)"); 16 USC § 3841(c)(1) ("Commodity Credit Corporation funds made available for a fiscal year for each of the programs . . . shall be available for the provision of technical assistance for the programs for which funds are made available as necessary to implement the programs effectively; . . . shall be apportioned for the provision of technical assistance in the amount determined by the Secretary, at the sole discretion of the Secretary;"). Memorandum Opinion for the General Counsel Office of Management and Budget, Funding for Technical Assistance for Agricultural

Instead of gambling on the number of staff that will be available to carry out critical conservation work on the ground, Congress needs to mandate adequate levels of funding for expert technical and watershed project staff. This could include funding for more local NRCS staff as well as funding for their state Soil and Water Conservation District staff partners. The bottom line is that farm bill conservation programs need to guarantee adequate funding for the high level of technical staff support that is needed to successfully carry out watershed project conservation work.

Supporting a local watershed project approach for restoring nutrient impaired water resources will also require that Congress renegotiate the balance between data sharing and producer privacy in the farm bill. This is key to ensuring watershed stakeholders have access to critical watershed planning data. Currently, instead of having a program approach that supports the collection and sharing of data that is critical for watershed planning, farm bill privacy provisions prohibit sharing of important information including farm boundaries, owner/operator information and producer enrollment in conservation programs.¹³ Working around overly broad data sharing prohibitions has caused one to two year delays in the development and implementation of watershed projects – a waste of time and resources.¹⁴ Successful state and local efforts demonstrate that it is possible to strike a better balance between protecting producer privacy and providing access to critical watershed planning information.¹⁵ Unless renegotiated, farm bill privacy provisions will continue to pose a hurdle to scaling up watershed projects.

The Regional Conservation Partnership Program Improvement Act, which is currently being discussed as part of the Farm Bill reauthorization process, proposes changes to the Regional Conservation Partnership Program (RCPP). Several of the proposed changes would amend the structure of the RCPP so that it addresses the issues outlined above and better supports the development and implementation of watershed

projects through the program. If the proposed RCPP amendments are adopted and further clarified by program rules, RCPP could help shift the policy focus in farm bill conservation programs from farm-by-farm conservation to local watershed project-based conservation that can effectively reduce nutrient pollution from agricultural sources.¹⁶ The remainder of this policy brief provides an overview of the RCPP and proposed changes to the program as well as recommendations for items that should be addressed in forthcoming program regulations.

Conservation Programs (Jan. 3, 2003) (“The Secretary of Agriculture may draw upon USDA’s CO appropriation to fund technical assistance for these programs.”).

¹³ 7 USC § 8791(b)(2); *See also* Konopacky, *Battling the (Algae) Bloom: Watershed Policies and Plans in Wisconsin*, p 296-97.

¹⁴ *See* Konopacky and Ristino, *The Healthy Watershed Framework: A Blueprint for Restoring Nutrient-Impaired Waters Through Integrated Clean Water Act and Farm Bill Conservation Planning and Implementation at the Subwatershed Level*, p 675, 690

¹⁵ *See*, for example, the discussion of Indiana’s negotiated agreement with USDA for sharing farm bill data with watershed project stakeholders in Konopacky, *Small Scale Watershed Planning and Implementation in America’s Farming Communities*, p 8.

¹⁶ To some extent changes to RCPP would automatically help shape other Farm Bill conservation programs because part of the program is funded through contributions from other programs including EQIP, CSP and ACEP.

Regional Conservation Partnership Program

Lawmakers created the Regional Conservation Partnership Program as part of the 2014 Farm Bill. Instead of simply mirroring the farm-by-farm conservation approach in the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program (CSP), the RCPP requires the use of regional, landscape or watershed scale approaches to contextualize and prioritize individual farm conservation efforts and address natural resource - soil, water and wildlife concerns.¹⁷ To achieve conservation implementation on these larger scales, the program encourages partners willing to cover a significant portion of project costs to enter into partnership agreements with the Natural Resource Conservation Service (NRCS) and work with producers on projects that affect multiple agricultural or private forest operations.¹⁸ In 2016, 34 out of 84 approved RCPP projects focused on addressing water quality resource concerns.¹⁹

Funding for the RCPP comes from two sources. For each fiscal year 2014-18 the program is authorized to receive \$100 million from the Commodity Credit Corporation (CCC). Program CCC funds remain available until expended.²⁰ RCPP is also authorized to receive annually seven percent of funds and acres made available for other conservation programs.²¹ This second type of funding reverts back to source programs unless expended by April 1 of the relevant fiscal year.²² Despite its critical importance for promoting landscape

and watershed-scale projects, funding for the RCPP program is tiny compared to funding for other farm bill conservation programs. For example, Congress authorized \$1.75 billion to be used to implement the EQIP program in 2018.²³ In contrast, the estimated total funding available for carrying out the RCPP program in 2018 is only \$252.6 million.²⁴

RCPP funding is distributed among three program pools - a national pool (40%), a national critical conservation area (CCA) pool (35%) and a state pool (25%).²⁵ The NRCS national office allocates funds from the national pool to projects that address at least one of several national resource concern priorities, which include: excess/insufficient water/drought, water quality degradation, soil quality degradation, inadequate habitats for fish and wildlife (and invertebrates), air quality impacts, degraded plant condition, energy and climate change.²⁶ The national office prioritizes national pool applications that address multistate resource concerns and those that have specific plans to monitor and assess outcomes.²⁷ NRCS national office also allocates funds from the national CCA pool. National CCA areas are shown in the map at the end of this section. CCA applications must address at least one resource concern associated with the CCA in which the project will occur.²⁸ CCA resource concerns include: water quality degradation, inadequate habitat for fish and wildlife (and invertebrates), excess/insuffi-

¹⁷ 16 USC § 3871 (b)(2)

¹⁸ 16 USC § 3871b (b)(2)

¹⁹ USDA, RCPP Fact Sheet, available at: file:///Users/jkonopacky/Downloads/RCPP_FactSheet_2_11_16.pdf

²⁰ 16 USC § 3871d (a)(b)

²¹ RCPP receives 7% of funds and acres that Congress makes available for the following programs: EQIP, CSP and the Agricultural Conservation Easement Program (ACEP).

²² 16 USC § 3871d(c)

²³ 16 USC § 3841(a)(5)(E)

²⁴ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding (2017)

²⁵ 16 USC §3871d(d)

²⁶ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 10-11 (2017)

²⁷ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 10-11 (2017)

²⁸ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 10-11 (2017)

cient water/drought, degraded plant condition and soil quality degradation.²⁹ Water quality degradation is a CCA resource concern in all but one CCA - the Prairie Grasslands Region CCA. NRCS state conservationists working with their state technical committees allocate funds received through the state pool.³⁰ State pool applications must address at least one national resource concern and may also address a state-identified priority.³¹

For 2018, the maximum funding available for any RCPP project is \$10 million.³² The RCPP statute clearly prohibits partners from using federal funds to pay for their administrative expenses.³³ However, it does not provide examples of, or define the term administrative expenses. The statute also fails to recognize the difference and distinguish between partner administrative activities and technical assistance work. Most importantly, the statute fails to affirmatively authorize the use of federal funds to support partner provided technical assistance.

Parties interested in working on RCPP projects must apply through a bifurcated competitive process that includes pre-proposal and full proposal applications.³⁴ They must submit applications that identify: (1) project scope, (2) a plan for monitoring, evaluating and reporting on project progress, (3) an estimate of funds needed, (4) conservation programs to be used in

carrying out the project, and (5) partner roles, responsibilities and financial contributions.³⁵ The estimate of funds needed must be broken down into financial assistance (money for implementing practices) and technical assistance (money for design, contracting, and installation of practices), and applicants must indicate how much of each type of funding they will provide and how much they are requesting from NRCS.³⁶ Applicants may seek funding for previously funded projects if they specify how a new project differs from a previously funded project.³⁷ NRCS evaluates national and CCA applications based on four broad categories: participation, innovation, contribution, and solutions. State conservationists review state applications using their own criteria.³⁸

Once a full proposal application is selected, project applicants will work with the NRCS to negotiate a final partnership agreement. Partnership agreements cannot exceed five years but one time, one year extensions may be available.³⁹ Final partnership agreements must include a description of: (1) project scope, (2) conservation activities to be implemented, (3) potentially affected land, (4) geographic area covered and (5) planning, outreach, implementation and assessment to be conducted.⁴⁰ Under partnership agreements, partners must also agree to conduct outreach and education that encourages farmer participation, help farmers apply for

²⁹ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 11 (2017)

³⁰ 16 USC § 3871 d(d)(1)

³¹ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 11 (2017)

³² U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 9 (2017)

³³ 16 USC § 3871d(e)

³⁴ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 7 (2017). In carrying out the competitive application process, the secretary may give higher priority to applications that: assist producers in avoiding regulation, work with a larger number of producers in an area, coordinate with local, state or national efforts, or use innovate conservation methods (16 USC § 3871b(d).)

³⁵ 16 USC § 3871b(d)

³⁶ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 14 (2017)

³⁷ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 7 (2017)

³⁸ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 16-19 (2017)

³⁹ 16 USC § 3871b(b)

⁴⁰ 16 USC § 3871b(c)(1)(A)

program funds to implement conservation practices, leverage financial and technical assistance, conduct assessment of project effects and, at the conclusion of the project, report to the secretary regarding results and funds leveraged.⁴¹ Eligible partners are also responsible for providing a significant portion of project costs.⁴² NRCS seeks partner contributions that at least double federal project dollars.⁴³ Partners must submit annual and final progress reports. In annual reports, partners must: identify activities conducted to date, assess goals, make any proposed funding adjustments and report on other items included in a partnership agreement.⁴⁴

Producers who wish to participate in an RCPP project or to work independently to implement practices that fit within the scope of a project do so, primarily, by entering into contracts or other types of agreements with NRCS. Unlike other farm bill conservation programs, the RCPP does not have its own program contracting mechanism or regulations. Instead, contracting mechanisms from other programs and the related regulations are utilized to carry out RCPP projects.⁴⁵ NRCS may provide payments for up to five years to producers participating in water quality projects to encourage adoption of conservation practices that improve nutrient management.⁴⁶

In addition to carrying out RCPP projects through the execution of RCPP partnership agreements and related contracts with producers, NRCS may also enter into Alternative Funding Arrangements (AFA) with multistate water resource agencies or authorities (MWRA). The AFA structure allows NRCS to provide funding directly to MWRAs which, in turn, carry out RCPP projects with producers.⁴⁷ Under an AFA, after completing partnership and cooperative agreements with NRCS,

MWRAs are responsible for delivering all financial and technical assistance to producers including: identifying needed conservation practices, developing an implementation and maintenance plan, developing producer contracts, and providing technical assistance for the installation of conservation practices.⁴⁸ The same program limitations apply to producer contracts executed by MWRAs.⁴⁹ As part of an AFA, MWRAs also agree to provide annual audits and provide other information requested by the NRCS.⁵⁰

⁴¹ 16 USC § 3871b(c)

⁴² 16 USC § 3871(c)(2)

⁴³ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 7 (2017)

⁴⁴ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 20-21 (2017)

⁴⁵ The conservation programs through which RCPP project activities are implemented include: Agricultural Conservation Easement Program, The Environmental Quality Incentives Program, The Conservation Stewardship Program, and The Healthy Forests Reserve Program. 16 USC 3871a(1).

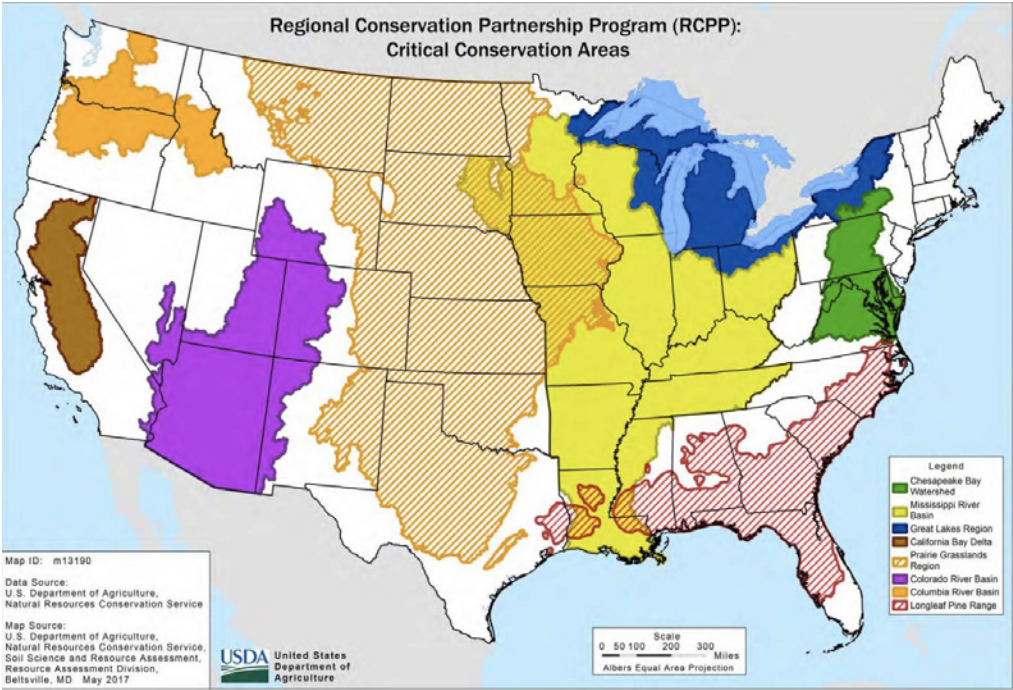
⁴⁶ 16 USC § 3871c(c)(2)(B)

⁴⁷ 16 USC § 3871c(b)(2)

⁴⁸ U.S. Dep't of Agric., No. USDA-NRCS-NHQ-RCPP, Regional Conservation partnership Program Announcement for Program Funding 12 (2017)

⁴⁹ 16 USC § 3871c(b)(2)(A)(ii)

⁵⁰ 16 USC § 3871c(b)(2)



Regional Conservation Partnership Program Improvement Act

The concept behind the RCPP - encouraging landscape and watershed scale conservation efforts - is sound and critical for addressing nutrient impaired water resources. To advance efforts to restore nutrient impaired water resources, Congress should reauthorize funding for the RCPP. However, in reauthorizing the program Congress should amend it to would help to ensure that it provides optimal support for local watershed projects that can efficiently and effectively improve water quality. Elements of RCPP that pose challenges for the development and implementation of local watershed projects or that fail to robustly support model projects include: (1) weak planning, monitoring and assessment requirements, (2) extensive application requirements, (3) short agreement timelines, (4) limited technical assistance provisions, (5) large financial match requirement, (6) reapplication hurdles and (7) lack of program regulations. Several amendments to the RCPP proposed in the RCPP Improvement Act aim to address these issues to ensure the program better supports sound local watershed projects. Below is a list of proposed changes included in the RCPP Improvement Act with brief explanations of how the proposed changes could help the RCPP better support robust local watershed projects.

- Proposed change:** Prioritize project applications that propose to develop and implement watershed plans.
- Potential benefit:** Prioritizing RCPP project applications that propose to develop and implement watershed plans recognizes that watershed planning is a necessary first phase of water quality implementation projects. Effective watershed planning is a locally-lead process that produces a conservation roadmap for a local watershed and can often be completed in one year. Well-developed watershed plans: (1) prioritize practices to ensure the biggest bang for the buck, (2) geolocate practices based on soils, elevation and crop rotation data, (3) provide an implementation timeline, (4) model reductions expected from practice implementation, (5) identify technical assistance needs, (6) identify practice and technical assistance costs and (7) include a plan for monitoring progress and adaptively managing results. Having a well-developed watershed plan in place before work on installing conservation practices begins ensures an investment approach to conservation and sets a water quality project up for success. Including watershed planning language in the RCPP statute sets the stage for program regulations that can more clearly identify a watershed planning process and substantive planning requirements for RCPP water quality projects.
- Proposed change:** Simplify and create a more effective application process.
- Potential benefit:** Many of the items that RCPP applicants are currently required to address in their RCPP initial applications and agreements are best identified through a watershed planning process that may need to be completed after an application is approved. Including these items in initial application and agreement requirements creates a barrier for Soil and Water Conservation Districts and others that may want to use RCPP funding to complete watershed planning as the first phase of a watershed implementation project. Simplifying application and agreement requirements could speed up and increase approvals of project proposals to develop and implement watershed plans and provide stakeholders with additional time and resources to develop project information through a sound local watershed planning process. Moreover, simplifying application and agreement requirements would also ensure that project implementation information submitted to NRCS is accurate and that planned conservation has local buy-in. If initial application and agreement requirements are modified to account for information that will be developed through watershed planning, the substance of RCPP agreements would likely be positively impacted. RCPP agreements could be amended after watershed planning has been completed, one year after a project start date, to include watershed plans. This approach could produce more complete and precise agreements that include measurable milestones and final natural resource goals.
- Proposed change:** Include important watershed planning, monitoring and assessment elements in partnership agreement requirements. Important watershed planning, monitoring and assessment elements to be included in agreements are: (1) identification of natural resource concern(s), (2) location of conservation activities, (3) implementation timeline and milestones, and (4) quantified assessments of natural resource restoration progress. The Secretary is to provide assessment guidance and report to Congress on progress addressing natural resource concerns.
- Potential benefit:** It is important that the RCPP provides a framework for watershed planning and identifies a watershed planning process and substantive planning requirements for water quality projects. Currently, the program provisions are limited to general application and agreement requirements and do not identify unique water

quality project requirements. Under the proposed amendments, partnership agreements would need to: (1) identify natural resource concerns, (2) identify location of conservation practices, (3) develop implementation timelines with milestones, and (4) provide for quantitative assessment of progress in restoring natural resources concerns.⁵¹ Although not unique to water quality projects, these agreement elements closely match elements of a well-developed watershed plan. The relationship between the proposed additional agreement requirements and watershed plans could be made explicit in program regulations. Forthcoming regulations could identify a watershed planning process and plan content and explain how watershed plans could be submitted to fulfill agreement requirements.

- **Proposed change:** Extend partnership agreements beyond five years and/or expedite renewal of agreements and funding for projects demonstrating success in restoring natural resource concerns.
- **Potential benefit:** Extending the length of partnership agreements beyond five years or providing for an expedited renewal process to continue projects demonstrating measurable success could minimize the administrative burden on local watershed project stakeholders. It may take stakeholders 10-20 years to fully implement a local watershed project. Making it clear that projects demonstrating progress will be eligible for additional funding without the burden of a full reapplication process every five years could increase the likelihood that watershed projects started under RCPP will be carried through to completion and fully address identified water quality resource concerns.
- **Proposed change:** Authorize the Secretary to advance funds for partner-provided technical assistance including: education and outreach, watershed plan development and establishment of baseline metrics while maintaining the prohibition on use of funds for partner administrative expenses. Require the Secretary to provide annual reports on provision of technical assistance.
- **Potential benefit:** Watershed projects have diverse technical assistance needs from start to finish including planning, project coordination, monitoring, education and outreach, practice installation and other critical elements. On the ground research demonstrates that successful projects clearly identify upfront, to the best of their ability, technical assistance costs in watershed plans and ensure funding for key technical staff remains available for the life a project. Without sustained funding for local technical assistance staff, projects may experience high staff turnover that undermines project momentum and producer confidence. Affirmatively providing the opportunity for RCPP partners to use RCPP funds to conduct watershed planning and to perform technical assistance needs identified in approved watershed plans could drastically improve service delivery to producers and speed up project development and implementation. Partner technical assistance would complement the technical assistance being contributed by local NRCS offices.
- **Proposed change:** Allow partners to use in-kind support and count support provided before project start date
- **Potential benefit:** Stakeholders in an area may install conservation in a potential project area or expend significant effort scoping, performing education and outreach or undertaking initial watershed planning activities prior to applying for an RCPP partnership agreement or during the project term. Counting these efforts toward the RCPP partner match requirement could help to ensure that the amount of cash funds amassed for a project does not receive undue weight in the application vetting process. Counting in-kind and previous efforts will help to level the playing field for stakeholders with expertise and experience in a potential project area that may not be able to provide significant cash matches.
- **Proposed change:** Make grant agreements a subcategory of partnership agreements and allow them to be utilized when it would further program goals. Create an opportunity for watershed planning and implementation projects to utilize the new grant agreement format.
- **Potential benefit:** RCPP currently allows only Multistate Water Resource Agency or Authority (MWRAs) partners to utilize Alternative Funding Arrangements (AFA) to carry out RCPP projects. AFAs involve additional partner responsibilities including providing all technical and financial assistance instead of utilizing NRCS's technical and financial assistance services, but also entail greater flexibility and control in using funding to carry out a project. AFAs have not been widely utilized. This may be in part due to the fact that AFAs are not available to many categories of partners. Abolishing

⁵¹ Measurable milestones and goals could include producer engagement, conservation practice implementation, modeled nutrient loading reductions and measured water quality improvements.

AfAs and establishing grant agreements that can be used by more partners may increase the use of these arrangements in cases where doing so could improve the delivery of services to producers and ensure better project outcomes. Making grant agreements available to partners implementing watershed planning and implementation projects, in particular, makes sense. Watershed plans provide sieboards that identify when, how and where technical assistance and financial assistance dollars will be deployed, which enhances transparency and accountability and protects against wasteful or inefficient use of project dollars. In addition, because watershed project implementation can be highly variable because of weather and social forces, stakeholders implementing these projects would benefit from being able to obligate dollars themselves when the time is right. Utilizing grant agreements for watershed projects could also help ensure stakeholders are not held up by batching processes or stuck waiting in queues for technical assistance from local NRCS staff that may already be working on other projects.

- **Proposed change:** Increase from 7-20% funding from EQIP, CSP and ACEP. Make Commodity Credit Corporation (CCC), EQIP, CSP and ACEP funding available until expended.
- **Potential benefit:** Proposed changes to RCPP funding levels will help to close the huge gap between available state and federal funding and funding needs for implementing watershed projects. The inadequacy of RCPP funding for carrying out watershed projects at scale nationwide can be seen by briefly considering the number of local watershed projects that are likely needed to restore water quality or by comparing available RCPP funding to dedicated state funding and state projections of funding needs. Midwestern agricultural states each have well over 1,000 local watersheds. To address local, regional and national water quality issues, stakeholders will likely need to develop and implement watershed plans in many, perhaps a majority, of these local watersheds. Each of these plans may cost from five to twenty million dollars to fully implement. To address water quality issues in Minnesota, the state has established a Clean Water Fund (CWF). In 2016-17, the CWF made \$228.302 million available for water quality

work.⁵² This is just \$24 million dollars less than RCPP will make available for all projects (only one quarter of which are water quality projects) nationwide in 2018. Another sobering perspective on the need for drastically increased funding can be found in the state of Iowa's Nutrient Reduction Strategy, which estimates that addressing agricultural nutrient runoff in Iowa could cost one billion dollars annually.⁵³ A consideration of the number of needed local watershed projects as well as of state funding commitments and projections of costs makes clear that the proposed ramping up of RCPP funding is desperately needed. Moreover, dedicating a significant share of new funds to local watershed planning and implementation projects will be critical to successfully addressing nutrient impaired water resources at scale.

- **Proposed change:** Require the Secretary to issue RCPP regulations.
- **Potential benefit:** Proposed amendments to the RCPP statute identify watershed planning and implementation projects as a unique type of RCPP project and make programmatic changes designed to better support this specific type of project. At present there are no RCPP regulations. Program regulations could more explicitly address procedural and substantive elements of RCPP watershed planning projects and thereby ensure that watershed projects will provide optimum service delivery to producers and maximize water quality returns on investment.

52 Clean Water Fund 2016-17 Interagency Fact Sheet: available at <http://www.legacy.leg.mn/funds/clean-water-fund>

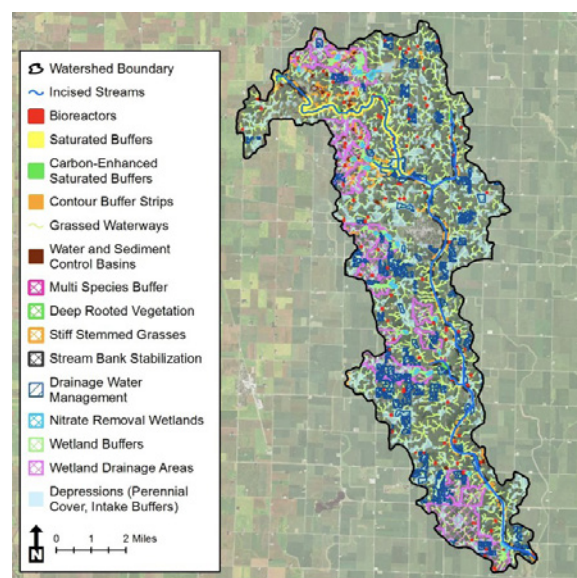
53 Iowa Nutrient Reduction Strategy, p 4 available at: http://www.nutrientstrategy.iastate.edu/sites/default/files/documents/2017%20INRS%20Complete_Revised%202017_12_11.pdf

Additional Recommendations for RCPP Regulations

Congress should adopt the proposed changes in the RCPP Improvement Act to increase the effectiveness of the RCPP for restoring nutrient impaired water resources through local watershed planning and implementation projects. In addition, NRCS should be required to develop regulations for the program instead of continuing to rely solely on other conservation program regulations and guidance in annual announcements for program funding. New program regulations that build on the proposed changes in the RCPP Improvement Act should identify a clear watershed project track including a watershed planning process and substantive watershed plan requirements. Below is a brief discussion of procedural and substantive components that NRCS could incorporate into RCPP regulations to provide a clear track for carrying out watershed planning and implementation projects through the program.

Providing a clear watershed planning process in program regulations is critical. Without a local and inclusive planning process, implementation may face serious delays due to producer unfamiliarity or resistance to planned practices. Local watershed planning ensures local leadership, improves data accuracy and secures producer buy-in. With sufficient financial support for technical assistance staff, a local watershed planning process can be completed in one year. Regulations governing watershed planning and implementation should incorporate this planning timeframe. In addition to project stakeholders and local producers, regulations should specify that the planning process be open to, and seek to actively involve, all stakeholders with an interest in a local watershed where a proposed project will occur.⁵⁴ Regulations could also recommend the formation of a local producer advisory council and require initial and final plan development meetings with producers. Moreover, it is important that regulations provide for the use of publicly available GIS watershed planning technology tools and maps during the planning process.⁵⁵ These tools provide powerful visuals of conservation opportunities in local watersheds and help producers and planners to focus conversations, identify available alternatives and select final groups of prioritized practices for local watersheds. For example,

below is a figure of conservation opportunities in a local Iowa watershed. Iowa Soybean Association (ISA), working with local producers, identified these conservation opportunities using the Agricultural Research Service's Agricultural Conservation Planning Framework (ACPF) GIS tool.⁵⁶ During a local planning process, ISA and producers prioritized a subgroup of the below identified practices that would achieve nutrient load reduction goals.⁵⁷



In addition to identifying a watershed planning process, RCPP regulations should identify the necessary substantive elements of a watershed plan and specify how approved, well-developed plans can be used to satisfy final application and partnership agreement requirements. At a minimum, regulations should require all watershed plans to: (1) identify sources of pollutant loading, (2) describe needed conservation practices and critical areas, (3) estimate load reductions from conservation practices, (4) identify related loading/ water quality success criteria, (5) describe interim measurable milestones, (6) describe a modeling/monitoring approach, (7) describe education and outreach, (8) estimate technical and financial assistance costs, and (9) schedule implementation of conservation practices/assign technical

⁵⁴ Konopacky and Ristino, *The Healthy Watershed Framework: A Blueprint for Restoring Nutrient-Impaired Waterbodies Through Integrated Clean Water Act and Farm Bill Conservation Planning and Implementation at the Subwatershed Level*, p 672-73

⁵⁵ The Agricultural Conservation Planning Framework (ACPF) is a watershed planning framework and GIS tool developed by the Agricultural Research Service. The GIS tool sites in-field, edge of field, and riparian conservation practices in local watersheds based on soil type, elevation, and crop rotation data. Information on the tool is available at: <http://northcentralwater.org/acpf/>

⁵⁶ Map courtesy of Adam Kiel, Iowa Soybean Association. More information on watershed planning being performed by ISA using the ACPF tool can be found at: <https://www.iasoybeans.com/programs/isa-research/get-informed/watershed-planning/>

⁵⁷ Konopacky and Ristino, *The Healthy Watershed Framework: A Blueprint for Restoring Nutrient-Impaired Waterbodies Through Integrated Clean Water Act and Farm Bill Conservation Planning and Implementation at the Subwatershed Level*, p 669-70

assistance tasks.⁵⁸ RCPP regulations could make a simplified application and initial partnership agreement process available to prospective RCPP partners that would like to work with producers to develop a watershed plan incorporating the above elements. Regulations could further provide for incorporation of approved watershed plans into final agreements that would guide watershed project implementation. Regulations may need to provide 10-20 years for the implementation of local watershed plans. During rule development, NRCS could solicit comments from experienced project stakeholders on the appropriate implementation timeline for a local watershed project.

⁵⁸ These are the nine key watershed planning elements that are included in voluntary watershed plans for projects that use Clean Water Act section 319 funding. Environmental Protection Agency, Nonpoint Source Program and Grant Guidelines for States and Territories (2013) p 18-19

Conclusion

Nutrient pollution from agricultural runoff is causing substantial negative impacts to drinking, recreational and commercial waters in the United States and presents pressing human health and environmental issues nationwide. Model local watershed planning and implementation in agricultural areas must be scaled up to address the nutrient pollution problem. This will require a sound policy framework that includes a local watershed planning and implementation approach and provides adequate funding, data, expert staff, public technology and training to support needed local watershed projects. Passage of the RCPP Improvement Act as part of the 2018 Farm Bill reauthorization and the development of RCPP program rules following farm bill reauthorization present two key near-term opportunities. It is critical that Congress and NRCS take advantage of these opportunities to improve delivery of conservation services to producers and to incorporate into federal conservation policy a sound framework for the development and implementation of local watershed projects that can efficiently and effectively restore nutrient polluted waterbodies.
